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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,351	01/17/2002	Markus Henneken	ZAHFRI P400US	2560
20210	7590	10/23/2003	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			JACKSON, ANDRE K	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/031,351

Applicant(s)

HENNEKEN, MARKUS

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because empty diagram boxes are impermissible under 37 CFR §1.83(a) which recites as follows:

*"The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a **labeled** representation (e.g., a **labeled** rectangular box)." (Emphasis added by Examiner)*

2. The empty diagram boxes 1 and 3 found in Figure 1 of the drawings, must be labeled with an appropriate descriptive phrase in addition to the reference legend already present. Appropriate correction is required.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is objected to because of the following informalities:

On page 2, line 5 "fo" should be --of--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 22, Applicant states that McKenzie et al. does not disclose the use of an additional or separate stationary torque-transmitting hub located between the transmission output shaft and a fixed part of the test bench. Applicant has not disclosed this limitation in the disclosure. Where is it disclosed that a separate torque-transmitting hub is needed in the invention? How is this separate torque-transmitting hub located between the transmission output shaft and a fixed part of the test bench when there is no bench present in the invention?

Clarification and correction is needed.

Claim 26 recites the limitation "torque-measuring hub" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by McKenzie et al.

Regarding claim 15, McKenzie et al. disclose a "Method of calibrating clutches in a transmission" which simulates a vehicle operation by connecting an input shaft (22) of the transmission that is connected with a driving source (18), which produces preset rotational speeds and testing a plurality of shifting elements in the transmission by providing an input rotational speed to the transmission to supply pressure-setting elements in the transmission with hydraulic pressure sufficient to actuate the shifting elements out of an opened condition to the extent necessary to determine, indicate and store a desired shifting element characteristic (Column 1 and Column 4, lines 1-23) and connecting the output shaft of the transmission with a stationary torque-measuring hub (Figure 1, 17).

Regarding claim 16, McKenzie et al. disclose where the shifting element slip tends towards zero (Column 7, lines 1-8).

Regarding claim 17, McKenzie et al. disclose the step of using the hysteresis of the threshold between opening and closing of the shifting element as characteristic quantity (Column 5, lines 46-53).

Regarding claim 18, McKenzie et al. disclose the step of using the slip rotational speed of the shifting element as the characteristic quantity (Column 4, lines 9-22).

Regarding claim 19, McKenzie et al. disclose the step of using the torque transmitted to the hub as the characteristic quantity (Column 2, lines 45-50).

Regarding claim 20, McKenzie et al. disclose the step of using the time needed to shift a shifting element with positive engagement as the characteristic quantity (Column 3, line 35).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie et al.

Regarding claim 21, McKenzie et al. does not disclose the step of maintaining the shifting elements in a closed position after testing. However, the skilled artisan would be inclined to leave the elements in a closed position to verify that the particular element has been tested.

Regarding claim 22, McKenzie et al. simulates a vehicle operation by connecting an input shaft (22) of the transmission that is connected with a driving source (18), which produces preset rotational speeds and testing a plurality of shifting elements in the transmission by providing an input rotational speed to the transmission to supply pressure-setting elements in the transmission with hydraulic pressure sufficient to actuate the shifting elements out of an opened condition to the extent necessary to determine, indicate and store a desired shifting element characteristic (Column 1 and Column 4, lines 1-23) and an output shaft of the transmission being connected with a stationary torque-transmitting hub (Figure 1, 17). McKenzie et al. does not disclose the step of maintaining the shifting elements in a closed position after testing. However, the skilled artisan would be inclined to leave the elements in a closed position to verify that the particular element has been tested.

Regarding claim 23, McKenzie et al. disclose where the shifting element slip tends towards zero (Column 7, lines 1-8).

Regarding claim 24, McKenzie et al. disclose the step of using the hysteresis of the threshold between opening and closing of the shifting element as characteristic quantity (Column 5, lines 46-53).

Regarding claim 25, McKenzie et al. disclose the step of using the slip rotational speed of the shifting element as the characteristic quantity (Column 4, lines 9-22).

Regarding claim 26, McKenzie et al. disclose the step of using the torque transmitted to the hub as the characteristic quantity (Column 2, lines 45-50).

Regarding claim 27, McKenzie et al. disclose the step of using the time needed to shift a shifting element with positive engagement as the characteristic quantity (Column 3, line 35).

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 15-27 have been considered but are moot in view of the new grounds of rejection.

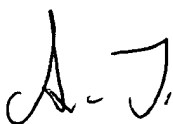
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.




Art Unit: 2856

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A.J.   
October 17, 2003

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800